


UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/239,978 05/09/94 BREED

D AT177

EXAMINER

TYSON, K

F1M1/0605

ART UNIT

PAPER NUMBER

 SAMUEL SHIPKOVITZ
 P. O. BOX 2961
 ARLINGTON, VA 22202

3106

DATE MAILED:

06/05/95

 This is a communication from the examiner in charge of your application.
 COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Response to communication filed on 2/28/95 ☐ This action is made final

 A shortened statutory period for response to this action is set to expire three month(s), _____ days from the date of this letter.
 Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

 1. ☒ Claims 1-62 are pending in the application.

 Of the above, claims 1-18, 28-32, 38-44, 48-50, 62 are withdrawn from consideration.

 2. ☐ Claims _____ have been cancelled.

 3. ☐ Claims _____ are allowed.

 4. ☒ Claims 19-27, 28, 29, 33, 34, 36, 47, 49 are rejected.

 5. ☐ Claims _____ are objected to.

 6. ☐ Claims _____ are subject to restriction or election requirement.

 7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

 8. ☐ Formal drawings are required in response to this Office action.

 9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

 10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

 11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

 12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

 13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

 14. ☐ Other

EXAMINER'S ACTION

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RESTRICTION REQUIREMENT

1. The claims are not sequentially numbered as required by 37 CFR 1.126. Accordingly, the claims have been renumbered.

Applicant is required to present an amendment repeating all pending claims with correct numbering in any responsive amendment.

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

Group I, a vehicle communication system having a vehicle monitoring system, classified in class 379, subclass 58. Note claims 3, 12, 31(as renumbered)

Group II, a vehicle entertainment system or directional microphone having a vehicle monitoring system, classified in class 381, subclass 86 or 92. Note claims 4, 13, 30, 32 and 59 (as renumbered)

Group III, a heating and air conditioning system having a vehicle monitoring system, classified in class 454, subclass 75. Note claims 5, 6, 7, 14, 15, 16, 37, 50 and 56 (as properly numbered under 37 CFR 1.126)

Group IV, a vehicle monitoring system controlling a vehicle safety system, classified in class 280, subclass 735. Note claims 21 - 27, 35 - 36, 49 (as properly numbered under 37 CFR 1.126).

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Group V, a light filtering system with vehicle interior monitoring, classified in class 362, subclass 61. Note claims 38 - 45 (as renumbered).

Group VI, a sound cancellation system having vehicle interior monitoring, classified in class 381, subclass 71. Note claim 46 (as renumbered).

Group VII, a vehicle unauthorized user detection system and vehicle control, classified in class 180, subclass 287. Note claims 53 -55.

Group VIII, a vehicle seat control system, classified in class 296, subclass 58. Note claim 58 (as renumbered).

Claims not listed in notes above were considered generic to two or more groupings or to not patentably define over generic claims. If applicant elects either group IV or group VII, the undersigned examiner will also examine claims 61 and 62 (as renumbered under 37 CFR 1.126) since the claims may be grouped with either group.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

4. Applicant's election with traverse of the invention of Group IV in Paper No. 4 is acknowledged. The traversal is on the ground(s) that all of the groups are united by the use of "Pattern Recognition Means". This is not found persuasive because inventions may be unified by a common concept, but still

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separately patentable. However, if an allowable generic claim is found rejoinder is permitted.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-18, 28-32, ^{45,46}33-44, 48, and 50-62 are withdrawn as being drawn to a non-elected invention.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 19, 20, 28, 29, 33, 34, 36 and 47 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Ishikawa et al., U.S. Patent No. 4,625,329.

7. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same

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person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

8. Claims 21-27 and 49 rejected under 35 U.S.C. § 103 as being unpatentable over Ishikawa in view of Fujita, U.S. Patent No. 5,074,583.

Ishikawa does not disclose to control an air bag system. Fujita discloses to control an air bag system as a function of a passenger's size or position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikawa to control the air bag system in order to improve safety as taught by Fujita.

As to claim 26, such inflators are conventional and would have been included in the combination.

As to claims 27 and 49, such sensors are conventional and would have been included in the combination.

9. Claim 35 is rejected under 35 U.S.C. § 103 as being unpatentable over Ishikawa in view of Yano et al., U.S. Patent No. 5,125,686.

Ishikawa discloses all but an adjustable seat belt anchor.

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Yano discloses such an anchor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikawa to control the seat belt anchor in order to improve safety as taught by Yano.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gentry, White and Mattes disclose vehicle interior monitoring systems.

Ando discloses a pattern recognition system for controlling vehicle components.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin Tyson whose telephone number is (703) 308-2086.


Karin Tyson
Primary Examiner
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